



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 29, 1994

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR94-781

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 28954.

The City of Garland (the "city") has received two requests for information relating to a certain murder investigation. Specifically, the requestors seek the offense report generated in connection with the investigation of the shooting death of Ms. Gezell Marshorn Sweeney. You advise us that the city has made some of the requested information available to the requestors. You object, however, to releasing the remaining information, which you have submitted to us for review, and claim that section 552.108 of the Government Code exempts it from required public disclosure.

Section 552.108 exempts from required public disclosure

(a) [a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . .
[and]

(b) [a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . .

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.* at 2.

You advise us that the requested information relates to a pending law enforcement investigation. Accordingly, we conclude that, except for first-page offense report information, the city may withhold the requested information under section 552.108 of the Government Code.¹

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

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Ref.: ID# 28954

Enclosures: Submitted documents
Excerpt from Open Records Decision No. 127 (1976)

¹We note, however, that the location of the information is not determinative of its status under section 552.108. The information identified by the court in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), as information generally found on the first page of the offense report must be released regardless of where it is found. *See* Open Records Decision No. 127 (1976) at 5. Therefore, to determine what information must be released, you will need to examine the type of information rather than its location. We have enclosed a copy of an excerpt from Open Records Decision No. 127 that lists the types of information that are considered public and which must be disclosed.